

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

KNIFE RIGHTS, INC.; RUSSELL ARNOLD; RGA AUCTION SOLUTION dba FIREARM SOLUTIONS; JEFFREY FOLLODER; MOD SPECIALTIES; EVAN KAUFMANN; ADAM WARDEN: RODNEY SHEDD

Plaintiffs,

Civil Action No. 4:24-cv-926

V.

MERRICK B. GARLAND, Attorney General
of the United States; UNITED STATES
DEPARTMENT OF JUSTICE,

Defendants.

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
(28 U.S.C. § 1331; 42 U.S.C. § 1983); 15 U.S.C. §§ 1241-1245)**

INTRODUCTION

1. In *District of Columbia v. Heller*, the Supreme Court made clear that “The 18th-century meaning” [of “Arms”] is “no different from the meaning today.” 554 U.S. 570, 581 (2008). That is to say, “arms” are “[w]eapons of offense, or armour of defense.” (*id.*, quoting 1 *Dictionary of the English Language* 106 (4th ed.) (reprinted 1978); (cleaned-up)), and further defined arms to mean “anything that a man wears for his defense, or takes into his hands, or uses in wrath to cast at or strike another.” (*Id.* (quoting 1 *A New and Complete Law Dictionary* (1771) (cleaned-up)).

2. Knives are “arms” protected under the plain text of the Second Amendment. The “Second Amendment extends, *prima facie*, to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding.” *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1, 28 (2021) (quoting *Heller*, 554 U.S. at 582). Indeed, the Supreme Court made clear in *Bruen* that the Second and Fourteenth Amendments protect the right to acquire, possess, and carry arms for self-defense and all other lawful purposes—inside *and* outside the home.

3. Despite Supreme Court precedent, the Federal Switchblade Act, 15 U.S.C. §§ 1241-1245, enacted in 1958 as Public Law 85-623, prohibits the introduction, manufacture for introduction, transportation, or distribution into interstate commerce of “switchblade knives,” as defined. 15 U.S.C. § 1241(b). The Act also prohibits the manufacture, sale, or possession of any “switchblade knife” within “Indian country,” including tribal reservations, and federal land, such as federal Bureau of Land Management (BLM) public land and National Parks. 15 U.S.C. § 1243 (“Federal Knife Ban”). The criminal penalties for violating the Federal Knife Ban (15 U.S.C. §§ 1242, 1243) are broad and severe. “Whoever”

1 violates the Federal Knife Ban “shall be fined not more than \$2,000 or imprisoned
2 not more than five years, *or both.* 15 U.S.C. §§ 1242, 1243 (emphasis added). As
3 shown below, the Federal Switchblade Act continues to be in effect, active, and
4 enforced, including threats of enforcement.

5 4. For example, in 2020, federal and state agencies raided Johan
6 Lumsden’s home/business (a switchblade manufacturer and dealer) for alleged
7 violations of the Federal Switchblade Act. The raid on Mr. Lumsden reverberated
8 throughout the knife industry, including rumblings with knife manufacturers and
9 dealers, throughout the United States.
10

11 5. As an additional example, in April 2007, Spyderco, Inc. (Spyderco), a
12 Colorado corporation, which manufactures and sells knives, was charged with
13 mailing and delivering, or causing to be delivered, automatic opening knives
14 (switchblades), including butterfly knives, which are non-mailable under Title 18,
15 United States Code (USC), Section 1716(g), in violation of Title 18 U.S.C.
16 1716(j)(1). Spyderco pled guilty and was sentenced by judgment entered in *United*
17 *States of America v. Spyderco, Inc.*, U.S. District Court, Northern District of
18 California, No. CR-07-00203-001 WDB.

19 6. The Court sentenced Spyderco; and the sentencing required, among
20 other things, Spyderco to: (a) pay to the U.S. a substantial fine (\$75,000) and a
21 special assessment (\$125.00); (b) forfeit all knives seized by the U.S. during the
22 search warrant of Spyderco’s premises; (c) issue, post, and mail notices of recall to
23 customers, wholesalers, and distributors; and (d) implement measures that ensure
24 such knives will only reach “legal markets,” including requiring Spyderco to use a
25 specified “Acknowledgment and Representations” form for its automatic knife
26 distributors and sellers that require such companies to acknowledge and comply with
27 the Federal Switchblade Act before reselling knives purchased from Spyderco.
28

1 7. Additionally, the Court's sentencing *broadly* prohibited Spyderco from
2 engaging in, among other activities, the transport, distribution, manufacture, sale,
3 introduction, or attempted introduction into interstate commerce knives, defined as
4 switchblades under Title 15 U.S.C. Sections 1241-1245 (Federal Switchblade Act)
5 or Title 18 U.S.C. 1716, in violation of the law. Specifically, the Court's Judgment
6 provides:

7 “*The defendant shall not import, transport, distribute, manufacture, sell,
8 introduce, or attempt to introduce into interstate commerce knives,
9 defined as switchblades under Title 15, United States Code Sec. 1241 –
10 1245 or Title 18, United States Code Sec. 1716 or the rules and
11 regulations lawfully promulgated thereunder, in violation of the law.
12 Such activities by defendant Spyderco, Inc. with respect to such knives
13 will be done legally and will take place employing measures to provide
14 reasonable assurance that such knives will only reach legal markets.
15 Such measures shall include use of the form attached hereto as Exhibit
16 A in connection with such activities. [Exhibit A, Acknowledgment and
17 Representations form].*”

18 (Judgment, filed April 12, 2007, *United States of America v. Spyderco, Inc.*, No. CR-
19 07-00203-001 WDB, U.S. District Court, Northern District of California, at 2, ¶5
20 [emphasis added].)

21 8. Since 2007 and to the present, manufacturers and retailers throughout
22 the United States also implement and require the so-called “Spyderco
23 Acknowledgment and Representations” in connection with their sales of automatic
24 opening knives (switchblades). Plaintiffs allege on information and belief that
25 manufacturers and retailers, which are also members of Plaintiff Knife Rights, Inc.
26 (Knife Rights), adhere to such requirements, acknowledgments, and representations
27 out of fear that the U.S. Attorney will target them, as it did with Spyderco—a well-
28 publicized arrest, search/seizure, and prosecution that sent shock waves throughout
the knife industry in the United States. Plaintiffs further allege that such
acknowledgment/representation requirements are needless, impermissible, and

1 violate the Second Amendment rights of Plaintiffs, including members of Plaintiff
2 Knife Rights.

3 9. As a further example, in 2009, Congress amended the Federal
4 Switchblade Act to add an exception to the criminal prohibitions against the sale,
5 use, transport, carry, and possession of a switchblade knife (as defined). The 2009
6 amendment was included in the Department of Homeland Security Appropriations
7 Act, 2010, Pub. L. No. 111-83, § 562, 123 Stat. 2142. Therefore, Congress's actions
8 continue to affirm that the Federal Switchblade Act, as amended, is in effect, active,
9 and enforceable. Said differently, if the Federal Switchblade Act were moribund,
10 Congress would not be taking action as recently as 2009 to amend it.

11 10. Further, Plaintiff Knife Rights, Inc. has participated in the introduction
12 and support of the proposed Knife Owners Protection Act, which includes the
13 proposed repeal of the Federal Switchblade Act. Knife Rights initiated its efforts to
14 repeal the Act, starting in the 115th Congress in 2017 through the 117th Congress in
15 2020, but repeal efforts have not yet succeeded. As a result, Congress continues to
16 keep the Federal Switchblade Act in effect, active, and, therefore, subject to
17 enforcement.

18 11. Additionally, as recently as March 7, 2024, U.S. Customs and Border
19 Protection continues to publish notice to the traveling public that traveling with a
20 "switchblade knife" (as defined) is prohibited. Specifically, the 2024 Notice provides
21 that, "Switchblade knives and other spring-loaded knives are prohibited and may be
22 subject to seizure."

23 12. Further, in 2024, Defendants admitted to enforcement of the Federal
24 Switchblade Act, though claiming that such enforcement has been modest over the
25 years. Defendants' admissions of enforcement, even if presently limited, confirm
26 that the Federal Switchblade Act is in effect, active, and subject to enforcement.

1 Moreover, Defendants' enforcement, though presently limited, is no assurance that
2 the Federal Switchblade Act will not continue to be enforced now and in the future;
3 and Defendants have provided no assurance, nor can they, that the Federal
4 Switchblade Act will not continue to be enforced now and in the future. Relatedly,
5 Defendants' purported limited enforcement of the Federal Switchblade Act is not
6 "modest" or "limited" when viewed from those subject to indictment, prosecution,
7 and criminal and other penalties and consequences.

8 13. Given: (a) the 2020 Lumsden raid, a raid well known in the knife
9 industry, including manufacturers and dealers throughout the United States; (b) the
10 2007 Spyderco indictment, plea, and sentencing penalties, including the
11 acknowledgment and representation requirements that reverberated in the knife
12 industry throughout the United States from 2007 to the present; (b) the 2009
13 Congressional amendment to the Federal Switchblade Act; (c) the 2017-2020 efforts
14 to repeal the Federal Switchblade Act, which have not yet been successful; (d)
15 Defendants' 2024 admissions of enforcement of the Federal Switchblade Act; (e)
16 Defendants' failure and inability in 2024, to provide any unequivocal assurances that
17 the Federal Switchblade Act will not continue to be enforced now and in the future
18 (despite that any such assurances would not be binding on Congress or any future
19 administration); and (f) the 2024 federal agency notification that traveling with a
20 "switchblade knife" (as defined) is prohibited and subject to seizure, the Federal
21 Switchblade Act continues to be in effect, active, viable, operative, and enforceable
22 with severe criminal and other penalties and consequences.

FEDERAL SWITCHBLADE ACT

26 14. In enacting the Federal Switchblade Act, Congress used its power to
27 regulate commerce through the Commerce Clause of the U.S. Constitution to limit
28 the manufacture, transport, sale, distribution, and possession of so-called

1 switchblade knives (as defined).

2 15. First, the Federal Switchblade Act, 15 U.S.C. § 1242, prohibits the
3 introduction, manufacture for introduction, transportation, or distribution in
4 interstate commerce any switchblade knife (as defined), along with a fine,
5 imprisonment, or both. Section 1242 provides:

6 “Whoever knowingly introduces, or manufactures for introduction, into
7 interstate commerce, or transports or distributes in interstate commerce,
8 any switchblade knife, shall be fined not more than \$2,000 or
9 imprisoned not more than five years, or both.”

10 16. This first section, 15 U.S.C. § 1242, prohibits the manufacturing,
11 transportation, or distribution into interstate commerce of any switchblade knife, as
12 defined. As shown, Section 1242 further subjects the manufacturer, transporter, or
13 distributor to severe penalties through fines, imprisonment, or both. Section 1242
14 also prohibits and penalizes anyone (“whoever”) that “knowingly introduces” any
15 switchblade knife — by sale, purchase, carry, or possession—over state lines and
16 beyond. See also 15 U.S.C. § 1241 (defining “interstate commerce” to mean
17 “commerce between any State, Territory, possession of the United States, or District
18 of Columbia, or any place outside thereof”).

19 Second, the Federal Switchblade Act, 15 U.S.C. § 1243, prohibits the
20 manufacture, sale, or possession of any switchblade knife within specified
21 jurisdictions, and imposes the *same* harsh criminal penalties — a fine, imprisonment,
22 or both. As shown in Section 1243, its prohibitions apply to, and prohibit, the
23 manufacture, sale, or possession of any “switchblade knife” within “Indian country,”
24 including Tribal reservations, and federal land, such as federal BLM public land and
25 National Parks—both of which are used by designated Plaintiffs and the public for
26 boating, rafting, camping, day use, hiking, mountain biking, climbing, hunting,
27 fishing, shooting, off-highway vehicle (OHV) uses, and other public recreation. (See

1 U.S. Department of the Interior, BLM, maps throughout the United States at
2 <https://www.blm.gov/maps>, last accessed June 22, 2024). Section 1243 provides:

3 “Whoever, within any Territory or possession of the United States,
4 within Indian country (as defined in section 1151 of title 18), or within
5 the special maritime and territorial jurisdiction of the United States (as
6 defined in section 7 of title 18), manufactures, sells, or possesses any
7 switchblade knife, shall be fined not more than \$2,000 or imprisoned
not more than five years, or both.”

8 17. This second section, 15 U.S.C. § 1243, prohibits the manufacture, sale,
9 or possession of any switchblade knife, as defined, within Native American (Indian)
10 land and reservations, U.S. territories (*e.g.*, Puerto Rico, Guam), federal public land
11 (*e.g.*, National Parks, BLM public land) and defined maritime and territorial
12 jurisdictions of the U.S. (*e.g.*, Navy vessels, government-owned aircraft). Sections
13 1242 and 1243, collectively, constitute the “Federal Knife Ban,” as referenced in this
14 case.

15 18. Further, the Federal Switchblade Act, 15 U.S.C. § 1244, contains
16 extremely narrow exceptions where the prohibitions in sections 1242 and 1243 do
17 not apply. The exceptions are quintessential examples of narrow, arbitrary, and
18 largely inapplicable exceptions that do not apply to the lion’s share of law-abiding
19 citizens throughout the United States.

20 19. Defendants’ enforcement of the Federal Knife Ban unconstitutionally
21 infringes on the fundamental rights individuals who reside in Texas and other States
22 within the U.S. to keep and bear common, constitutionally protected arms—
23 including automatic opening knives (or switchblade knives). The Federal Knife Ban
24 prohibits the right to manufacture for sale, sell, transport, distribute, purchase,
25 transfer, possess, and carry any switchblade knife (as defined) between any of the 50
26 states, Washington D.C., and any U.S. territory (*i.e.*, interstate commerce), despite
27 that automatically opening knives, or switchblades, are in common use and protected

1 by the Second Amendment (see Section 1242).

2 20. The Federal Knife Ban also prohibits the manufacture, sale, or
3 possession of any “switchblade knife” within Indian country, including Tribal lands
4 and reservations, and federal lands, including federal BLM public land and National
5 Parks—all of which are used by designated Plaintiffs and the public for recreation.
6 See Section 1243 and 18 U.S.C. §7 (broadly defining “Federal land”) and 18 U.S.C.
7 § 1151 (broadly defining “Indian country”).
8

9 21. This Complaint challenges the constitutionality under the Second
10 Amendment of the Federal Switchblade Act, Sections 1241, 1242, 1243, and 1244.
11 Plaintiffs do not challenge in this case Section 1245 (ballistic knives) or the Act’s
12 importation provision.

13 22. Because the Second Amendment “is exercised individually and belongs
14 to all Americans (*Heller*, 554 U.S. at 581), and because it “elevates above all other
15 interests the right of law-abiding, responsible citizens to use arms for self-defense”
16 (*Bruen*, 142 S. Ct. at 2118), Defendants’ enforcement of the Federal Knife Ban must
17 be declared unconstitutional and enjoined.
18

PARTIES AND THEIR STANDING

Knife Rights/Institutional Plaintiff

21 23. Plaintiff Knife Rights is a section 501(c)(4) member advocacy
22 organization incorporated under the laws of Arizona with a primary place of business
23 in Gilbert, Arizona. Plaintiff Knife Rights serves its members, supporters, and the
24 public through efforts to defend and advance the right to keep and bear bladed arms.
25 Plaintiff Knife Rights has members and supporters in Texas and states throughout
26 the Country. The interests that Knife Rights seeks to protect in this lawsuit are
27 germane to the organization’s purposes. Plaintiff Knife Rights sues on behalf of its
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1 members, including the Individual Plaintiffs herein, as part of Plaintiff Knife Rights' 2 extraordinary efforts to protect its members from the Federal Knife Ban's operation, 3 enforcement, and imposition of its several criminal penalties and the loss or non- 4 revocation of their federal firearms licenses. Plaintiff Knife Rights is hereinafter 5 referred to as the "Institutional Plaintiff" and/or "Knife Rights." Plaintiff Knife 6 Rights' members include peaceable, law-abiding individuals in Texas that want to 7 exercise their right to bear arms, now and in the future, through the acquisition, 8 possession, and carriage of automatically opening knives prohibited under the 9 Federal Knife Ban and Defendants' enforcement of the Federal Switchblade Act. 10 Plaintiff Knife Rights' members also include manufacturers and retailers of 11 automatically opening knives, which face the same prohibitions under the Federal 12 Knife Ban, along with Defendants' enforcement of the Act. Furthermore, as alleged 13 above, Spyderco's government-mandated acknowledgment/representation form is 14 itself needless, impermissible, and violative of the Second Amendment. 15

16 24. Organized in 2006, Plaintiff Knife Rights' mission is to, among other 17 things, ensure that federal and state restrictions placed on knives are not only 18 repealed, but stopped from ever being enacted. Knives are one of mankind's oldest 19 and most commonly used tools, and their ownership and lawful possession, use, and 20 carry are fully protected by the Second Amendment. Plaintiff Knife Rights seeks to 21 ensure that the right to keep and bear these bladed arms is well protected through 22 legislative efforts, defense of owners' civil rights through litigation and advocacy, 23 and public education. Plaintiff Knife Rights serves its members, supporters, and the 24 public through these efforts to defend and advance the right to keep and bear bladed 25 arms.

26 25. Additionally, starting in the 115th Congress in 2017 through the 117th 27 Congress in 2020, Knife Rights has participated in the introduction and support of 28

1 the proposed Knife Owners Protection Act, which, among other things, proposed the
2 repeal of the Federal Switchblade Act. However, to date, all such repeal efforts have
3 failed to be successful—which, in part, is due to Congressional action to reject repeal
4 of the Federal Switchblade Act; thereby continuing to keep the Act viable, operative,
5 and enforceable.

6 26. In Texas, however, Knife Rights successfully worked to repeal the ban
7 on switchblades in 2013. In 2015, Knife Rights successfully worked to get knife law
8 preemption enacted, which extended that switchblade ban repeal throughout the state
9 and ensured any future ban repeals would apply statewide. In 2017, Knife Rights
10 successfully worked to get Texas’ ban repealed on “illegal knives”— which included
11 a ban on Bowie knives, daggers, dirks, stilettos, poniards, swords, spears, and blades
12 over 5.5 inches. In 2019, Knife Rights successfully worked to get Texas’ ban
13 repealed on the carry of clubs (including tomahawks) and the possession and carry
14 of knuckles (including trench knives and the like).

16 27. As to bans on automatically opening knives (or “switchblade knives”),
17 Knife Rights has worked to get switchblade bans repealed in 18 states. A detailed
18 list of Knife Rights’ legislative accomplishments is on the Knife Rights website at:
19 <https://kniferights.org/about/accomplishments>, which is incorporated by reference
20 herein.

21 28. As part of its educational efforts, Knife Rights Foundation, Inc., a
22 section 501(c)(3) organization, which is affiliated with Plaintiff Knife Rights, Inc.,
23 has published a downloadable app, “LegalBlade,” which summarizes each states’
24 knife laws by “Knife Type” and provides the user with information on whether
25 specific knives are legal for “Possession,” “Open Carry,” and “Concealed Carry” in
26 each state. LegalBlade also provides direct links to each state’s relevant
27 knife/weapon statutes. Plaintiff Knife Rights supports and promotes the LegalBlade

1 App.

2 29. Plaintiff Knife Rights is taking part in this legal action to further pursue
3 its stated goals and purposes — and they are to expend substantial time, effort,
4 money, and other resources directed at ensuring the Second Amendment right to
5 bladed arms is fully protected throughout the United States. Plaintiff Knife Rights’
6 goals, purposes, and political, educational, and legislative accomplishments,
7 however, are separate and distinct from its litigation efforts. Plaintiff Knife Rights,
8 through its officers, volunteers and members, primarily advance the organization’s
9 political, educational, and legislative accomplishments. In contrast, Plaintiff Knife
10 Rights’ litigation endeavors require close work and coordination with special
11 counsel, and that time, effort, and cost are over and above Knife Rights’ customary
12 activities and accomplishments. In short, while Plaintiff Knife Rights’ political,
13 educational, and legislative efforts are part and parcel of its customary actions and
14 accomplishments, Knife Rights’ litigation time, efforts, and costs incurred are
15 extraordinary and distinct. (As alleged further below, Plaintiff Knife Rights’
16 extraordinary expenditures of time, effort, and cost on litigation matters to protect
17 knife rights have placed a real, concrete drain on Knife Rights’ resources,
18 particularly the funds relied upon from our member contributions to also pursue our
19 other customary political, educational, and legislative efforts.)

21 30. The actions undertaken by Plaintiff Knife Rights, which are described
22 in detail above, show that Knife Rights has expended a substantial amount of time,
23 effort, money, and other resources in its opposition to the Federal Switchblade Act
24 for several years. Our substantial endeavors have placed a real, concrete, and distinct
25 drain on our time, effort, money, and other resources, particularly funds from our
26 member contributions. This distinct drain also impairs our ability to continue to
27 implement our mission as an advocacy organization for the knife community with

1 respect to our customary political, educational, and legislative actions and
2 accomplishments.

3 31. The Federal Switchblade Act, and its continued unconstitutional
4 enforcement, also forces Knife Rights to drain its time, effort, money, and other
5 resources to educate its members about the Federal Switchblade Act's
6 unconstitutional prohibitions; and such resources would otherwise be used on other
7 Knife Rights' goals, purposes, and endeavors. By expending substantial and
8 extraordinary organizational time, effort, money, and other resources to challenge
9 the Federal Switchblade Act in court, Plaintiff Knife Rights has sustained injury,
10 harm, and losses that are over, above, and beyond its customary actions and
11 accomplishments. Such expenditures are exceptional and not merely in furtherance
12 of Knife Rights' mission, goals, and purposes.

14 32. Such injury, harm, and losses would also be avoided if Defendants
15 would simply take steps to voluntarily repeal or set aside the Federal Switchblade
16 Act; or declare unequivocally that Defendants' will not enforce the Federal
17 Switchblade Act—now and in the future. These steps, however, require
18 Congressional action or repeal of the Federal Switchblade Act, or court intervention
19 (as with this case), to ensure that such steps, if taken, are permanent. Instead,
20 Defendants boldly proclaim that the federal government shows four *prosecutions*
21 under the Federal Switchblade Act, but that the Act has not been enforced since 2010
22 (which, in fact, is not true). Nowhere do Defendants disavow enforcement.
23 Specifically, nowhere do Defendants disclose that they no longer enforce the Federal
24 Switchblade Act or that they will not enforce the law in the future. Further,
25 Defendants' statement about low prosecutions since 2010 is not evidence that there
26 have been no arrests, raids, charges, or pleas under the challenged provisions of the
27 Federal Switchblade Act. The Federal Switchblade Act remains "on the books" and
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1 can be enforced now and in the future, by this administration or a future one.

2 33. Defendants could publish an official stance from the Attorney General
3 or the Department of Justice that the challenged sections of the Federal Switchblade
4 Act will not be enforced now and in the future. But Defendants have provided no
5 such evidence or written assurances. Defendants could also affirm that the Federal
6 Switchblade Act will not be used to halt: (a) the interstate commerce of switchblade
7 knives, or (b) their possession and carry within and through Native American
8 (Indian) land and federal public land. But Defendants have provided no such
9 affirmation. Notably, even if Defendants did take such a stance, Plaintiffs allege on
10 information and belief that Congress and/or future administrations could rescind the
11 stance and actively enforce the Federal Switchblade Act.

13 34. As a direct result, Plaintiff Knife Rights, and its members, face a lose-
14 lose setting where they are injured either way—they must either continue to refrain
15 from exercising their Second Amendment rights, or risk enforcement up to and
16 including prosecution and severe criminal and other penalties and consequences.
17 Plaintiffs cannot simply assume that because Defendants say that prosecutions may
18 be down for the time being, it follows that Plaintiff Knife Rights and its members
19 can acquire and possess switchblades and move them through interstate commerce
20 and within and through Native American (Indian) land, National Parks, BLM public
21 land, and other federal land—free of enforcement and criminal penalties. In short,
22 Defendants’ purported slowdown in prosecutions is not synonymous with
23 Defendants’ disavowing prosecutions and more broadly, halting all enforcement
24 now and in the future of the Federal Switchblade Act. Quite simply, the only thing
25 that would support any claim of a lack of a threat of prosecution is an act of Congress.
26 As Congress has continued to enforce and amend the FSA, there is a very real threat
27 of prosecution.

1 35. But for the Federal Switchblade Act challenged in this action, Plaintiff
2 Knife Rights' organizational efforts would otherwise be expended in other ways.
3 Plaintiff Knife Rights' injury, harm, and losses as an organization could also be fully
4 redressed if the Court were to issue the nationwide injunction that Plaintiffs have
5 requested in this case. Until then, however, Plaintiff Knife Rights and its members
6 cannot engage in interstate commerce with respect to switchblade knives (as
7 defined), nor purchase, possess, and carry them within and through Native American
8 (Indian) land, National Parks, BLM public land, and other federal land without
9 substantial risk of criminal prosecution now and in the future under the Federal
10 Switchblade Act.

PLAINTIFFS AND THEIR STANDING

13 | Plaintiffs Arnold and RGA Auction Services, dba Firearm Solutions

14 36. Plaintiff Russell Gordon Arnold is an adult natural person, a citizen of
15 the United States, and a resident of Mansfield, Texas. Plaintiff Arnold is a peaceable,
16 non-violent individual who is eligible to keep and bear arms under state and federal
17 law. Plaintiff Arnold is also the owner and operator of Plaintiff RGA Auction
18 Services LLC, doing business as Firearm Solutions (Firearm Solutions).

19 37. Firearm Solutions is a federally licensed firearms dealer located in
20 Mansfield, Texas. In the regular course of business, Firearm Solutions, buys, sells,
21 transfers, and distributes firearms, firearm accessories, and various knives to its
22 customers. Additionally, Firearm Solutions owns and operates an online storefront
23 and a bricks-and-mortar business. The online storefront is found at <https://www.ngs->
24 [firearms.com](https://www.ngs-firearms.com).

26 38. Presently, Plaintiffs Arnold and Firearm Solutions do not advertise or
27 market the sale of automatic opening knives because of the Federal Switchblade
28 Act's prohibitions and criminal penalties, including fines, imprisonment, or both.

1 39. Plaintiffs Arnold and Firearm Solutions already have an established
2 clientele and retail business. As such, the only step required for Plaintiffs Arnold and
3 Firearm Solutions to begin selling automatically opening knives is to immediately
4 acquire them from manufacturers and distributors. However, Plaintiffs Arnold and
5 Firearm Solutions cannot make any such purchases or acquisitions due to the Federal
6 Switchblade Act.

7 40. Said differently, Plaintiffs Arnold and Firearm Solutions are ready,
8 willing, and able to immediately purchase and sell automatically opening knives and
9 the only thing stopping them, now and in the future, is their fear of prosecution for
10 violating Sections 1242 and 1243 of the Federal Switchblade Act. Further, selling
11 automatically opening knives is not some far off, undefinable goal. Instead, but for
12 the Federal Switchblade Act's prohibitions, Plaintiffs Arnold and Firearm Solutions
13 would place orders with manufacturers and distributors to immediately purchase
14 automatic opening knives and begin to immediately sell them. Plaintiffs Arnold
15 would also immediately purchase such knives for his own personal use, including
16 self-defense.

18 41. Plaintiffs Arnold and Firearm Solutions have an immediate intent to
19 acquire, possess, carry, offer for sale, sell, and distribute automatically opening
20 knives (switchblades) through interstate commerce for lawful purposes, including
21 self-defense. Plaintiffs Arnold and Firearm Solutions would immediately acquire,
22 possess, carry, offer for sale, sell, and distribute automatically opening knives
23 through interstate commerce, but for: (a) the Federal Switchblade Act, (b)
24 Defendants' enforcement, and threat of enforcement, of the Act, and (c) the
25 reasonable fear of arrest, search warrants, prosecution, and criminal penalties for
26 violating the Act, including the loss or non-renewal of its federal firearms license
27 (FFL) issued by the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives

1 (ATF).

2 42. At present, due to the prohibitions stated in the challenged sections of
3 the Federal Switchblade Act, neither Plaintiffs Arnold nor Firearm Solutions is
4 willing to take the risk of knowingly and willfully violating federal law by acquiring,
5 possessing, carrying, offering to sell, selling, transferring, and/or distributing
6 automatically opening knives through interstate commerce. Such risk could result in
7 arrest, search and seizure, criminal prosecution, and fines and imprisonment, or both.
8 Such risks could also result in Firearm Solutions' revocation or non-renewal of its
9 FFL, among, other penalties, which would directly result in the loss of Mr. Arnold's
10 business.

11 43. At present, Plaintiffs Arnold and Firearm Solutions are unable to
12 purchase automatically opening knives through manufacturers and distributors, and
13 to sell such knives to their customers in Texas and throughout the United States.
14 Plaintiffs Arnold and Firearm Solutions intend to acquire and distribute such knives
15 *without* adhering to or complying with the commonly adopted practice in the knife
16 industry that regulates interstate commerce of automatic knives via the explicit
17 exceptions to the FSA. Due to the Federal Switchblade Act prohibitions on interstate
18 commerce of automatically opening knives, even if Plaintiffs Arnold and Firearm
19 Solutions were to somehow legally acquire automatically opening knives within
20 Texas, they are still prohibited by law from selling them to any out-of-state customer.
21 This causes injury and harm to Plaintiffs Arnold and Firearm Solutions. Such injury
22 and harm cannot be redressed solely because of the Federal Switchblade Act
23 prohibitions and Plaintiffs Arnold's and Firearm Solutions' fear of prosecution under
24 the Act. Their only known redress or remedy from the harm and losses sustained are
25 to seek a nationwide permanent injunction against enforcement of the challenged
26 provisions in the Federal Switchblade Act, which is part of the relief requested in
27
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1 this case.

2 44. But for the challenged prohibitions in the Federal Switchblade Act,
3 Plaintiff Arnold would also acquire and possess automatically opening knives and
4 use them on a daily basis for his own lawful purposes, including self-defense.
5 Additionally, the Federal Switchblade Act's prohibitions on possession and carry
6 under Section 1243 prevent Plaintiff Arnold from possessing and carrying
7 automatically opening knives (switchblade knives) any time that he is traveling
8 within or through any Native American (Indian) country, Tribal reservations, and on
9 any federal land. Plaintiff Arnold has traveled within, and will continue to travel
10 through, various states throughout the United States, including traversing through
11 Native American (Indian) country, Tribal reservations, and federal lands such as
12 National Parks and BLM public land. However, Plaintiff Arnold is unable to possess
13 and carry such knives within and through these geographic areas without violating
14 the challenged provisions of the Federal Switchblade Act, risking prosecution, and
15 being subject to severe criminal penalties.
16

17 45. Plaintiffs Arnold and Firearm Solutions are members of Plaintiff Knife
18 Rights. Plaintiff Arnold and Firearm Solutions are taking part in this litigation to
19 protect their Second Amendment rights, as well as the Second Amendment rights of
20 similar individuals, retailers, customers, and would-be customers who have an
21 immediate and concrete desire to lawfully purchase, distribute, sell, possess, and
22 carry automatically opening knives through interstate commerce, but are prohibited
23 from doing so due to the Federal Switchblade Act, Defendants' enforcement of the
24 Act, and the imminent fear of enforcement and associated prosecution and criminal
25 and other penalties.
26

27 **Plaintiffs Folloder and MOD Specialties**

28 46. Plaintiff Jeffery E. Folloder is an adult natural person, a citizen of the

1 United States, and a resident of Katy, Texas. Plaintiff Folloder is a peaceable, non-
2 violent individual who is eligible to keep and bear arms under state and federal law.
3 Plaintiff Folloder is also the owner and operator of MOD Specialties, doing business
4 as “MOD Specialties.” Plaintiff Folloder intends, now and in the future, to acquire,
5 possess, carry, and offer for sale, and distribute through interstate commerce,
6 automatically opening knives for lawful purposes, including self-defense. Mr.
7 Folloder would immediately acquire, possess, carry, offer for sale, acquire and
8 distribute through interstate commerce such a knife but for the government’s
9 enforcement of the Federal Switchblade Act and his reasonable fear of arrest and
10 prosecution for violation of the Act. Plaintiff Folloder is currently a member of
11 Plaintiff Knife Rights.

12 47. MOD Specialties is a federally licensed firearms dealer located in Katy,
13 Texas. In the regular course of business, MOD Specialties buys, sells, and transfers
14 firearms and firearms accessories and various knives in accordance with federal and
15 state law.

16 48. Presently, Plaintiffs Folloder and MOD Specialties do not advertise or
17 market the sale of automatic opening knives because of the Federal Switchblade
18 Act’s prohibitions and criminal penalties, including fines, imprisonment, or both.

19 49. Plaintiffs Folloder and MOD Specialties have an established clientele
20 and retail business. As such, the only step required for Plaintiffs Folloder and MOD
21 Specialties to begin selling automatic opening knives is to immediately *acquire* them
22 from manufacturers and distributors. However, Plaintiffs Folloder and MOD
23 Specialties *cannot* make any such purchases or acquisitions due to the Federal
24 Switchblade Act. Said differently, Mr. Folloder and MOD Specialties are ready,
25 willing, and able to immediately purchase and sell automatic opening knives and the
26 only thing stopping them, now and in the future, is their fear of prosecution for
27
28

1 violating Sections 1242 and 1243 of the Federal Switchblade Act. Further, selling
2 automatic opening knives is not some far off, undefinable goal. Instead, but for the
3 Federal Switchblade Act's prohibitions, Plaintiffs Folloder and MOD Specialties
4 would place orders with manufacturers and distributors to immediately purchase
5 automatic opening knives and begin to immediately sell them. Plaintiff Folloder
6 would also immediately purchase such knives for his own personal use, including
7 self-defense.

8 50. Moreover, Plaintiff Folloder's and Plaintiff MOD Specialties' actual
9 and prospective customers cannot lawfully purchase any automatic opening knives
10 through interstate commerce; and therefore, cannot possess, carry, and use such
11 knives across interstate lines and on federal land and within Native American
12 (Indian) country, including Tribal reservations. This constitutes a cognizable injury
13 to him, MOD Specialties, and their actual and prospective customers because the
14 Federal Switchblade Act's interstate commerce prohibition is absolute; it prohibits
15 dealers/retailers (and customers) from acquiring such knives through interstate
16 commerce and from selling such knives to their customers.

17 51. Commerce in such knives is also a prerequisite to keeping and
18 possessing bladed arms for self-defense and other lawful purposes. Plaintiff
19 Folloder's right to pursue the Second Amendment claim in this case is for his own
20 interests and his business interests. Further, Plaintiff Folloder's business interests are
21 derived from his actual and prospective customers, all of whom have a corollary
22 right to keep and bear bladed arms for self-defense and other lawful purposes; and
23 the core Second Amendment right to keep and bear arms is meaningless without the
24 ability for customers of Mr. Folloder and MOD Specialties to acquire automatic
25 opening knives through interstate commerce, and to possess, carry, and use such
26 knives throughout the United States, including within and through Native American
27 (Indian) land, including Tribal reservations, and federal land.

1 52. As a direct result, both Plaintiff Folloder and Plaintiff MOD Specialties
2 are injured by the collective inability to purchase and sell automatic opening knives
3 to actual and prospective customers due solely to the prohibitions found in the
4 Federal Switchblade Act. Their injury would be redressed by a favorable ruling from
5 this Court, namely, issuing a permanent injunction against enforcement of Sections
6 1242 and 1243 of the Federal Switchblade Act. Their injury and the redress applies
7 with equal force to the other named Plaintiffs in this case.

8 53. Said differently, Sections 1242 and 1243 of the Federal Switchblade
9 Act stand as an absolute barrier to Mr. Folloder's and MOD Specialties' ability to
10 purchase and sell automatic opening knives through interstate commerce to actual
11 and prospective customers throughout the United States. If this case secures the
12 nationwide injunctive relief it seeks, that barrier will be removed. Once removed, at
13 Plaintiff Folloder's direction, MOD Specialties will immediately purchase,
14 advertise, market, and sell automatic opening knives to its customers in Texas and
15 throughout the United States. Until then, however, Mr. Folloder's and MOD
16 Specialties' business sales and profit-generating capability are lower than they
17 otherwise would be if they were able to purchase and then advertise, market, and sell
18 another new line of knives (automatic opening knives) to existing and prospective
19 customers.

20 54. Additionally, Plaintiffs Folloder and MOD Specialties frequently attend
21 various gun shows throughout the country. Specifically, Mr. Folloder and MOD
22 Specialties attend shows and events where they sell their products in Kentucky,
23 Nevada, Arizona, Oklahoma, Texas, Florida, and Virginia, and they regularly travel
24 annually to and through roughly 20 states, including traversing within and through
25 Native American (Indian) country, including Tribal reservations, and federal land.
26 They also attend many shows and events like the NRA's convention that is held in a
27
28

1 different state every year. The majority of their business, approximately 75 percent,
2 is conducted with out-of-state clients at these shows.

3 55. Because MOD Specialties maintains a FFL, Plaintiff Folloder
4 exclusively travels by truck to attend these shows and events to conduct retail sales
5 that are completed in accordance with federal regulations. As such, he routinely
6 travels within and through Native American (Indian) country, including Tribal
7 reservations, and federal land with the products that he sells.

8 56. Thus, even if Plaintiff Folloder were to legally acquire automatic
9 opening knives within the state of Texas, he would be prohibited from crossing state
10 lines with his new automatically opening knife inventory because he would be in
11 violation of the Federal Switchblade Act by introducing them into interstate
12 commerce and by merely traveling within and through various states to the various
13 gun shows/conventions where he sells his products.

14 57. Moreover, if Plaintiff Folloder were to legally acquire an inventory of
15 automatic opening knives, by travelling from state-to-state, often driving within and
16 through federal land or Native American (Indian) country, both Plaintiff Folloder
17 and MOD Specialties would be in violation of the FSA by *merely possessing* the
18 knives within these prohibited areas. Attached hereto as **Exhibit A** is a true and
19 correct copy of a map depicting the areas within the United States that are controlled,
20 maintained, or owned by the federal government. This map shows that Plaintiff
21 Folloder would be prohibited from merely possessing an automatic opening knife in
22 a vast majority of the western portion of the United States.

24 58. Not only does the Federal Switchblade Act prohibit Plaintiff Folloder
25 from acquiring automatic opening knives and possessing them as a part of his
26 business, MOD specialties, these same prohibitions apply to Mr. Folloder
27 personally. But for the Federal Switchblade Act, both Mr. Folloder and MOD
28 Specialties would acquire and possess automatic opening knives and use them on a

1 daily basis for lawful purposes but for Sections 1242 and 1243 of the Federal
2 Switchblade Act.

3 59. Plaintiff Folloder plans on visiting various National Parks, including
4 Yosemite and the Grand Canyon. He also plans to participate in the March 2025,
5 Bataan Memorial Death March marathon held at the White Sands Missile Range.
6 While in attendance, Plaintiff Folloder would possess a switchblade knife for various
7 lawful purposes but for the FSA prohibition on possession of such a knife on federal
8 land, including the missile range.

9 60. Plaintiffs Folloder and MOD Specialties are members of Plaintiff Knife
10 Rights. Plaintiffs Folloder and MOD Specialties are taking part in this litigation to
11 protect their Second Amendment rights, as well as the Second Amendment rights of
12 similar individuals, retailers, customers, and would-be customers who have an
13 immediate and concrete desire to lawfully purchase, possess, and carry automatically
14 opening knives through interstate commerce, but are prohibited from doing so due
15 to the Federal Switchblade Act, Defendants' enforcement of the Act, and the
16 imminent fear of enforcement and associated prosecution and criminal and other
17 penalties.

18
19 **Plaintiff Evan Kaufmann**

20 61. Plaintiff Evan Kaufmann resides in Austin, Texas, and has been a Texas
21 resident for approximately seven years. Plaintiff Kaufmann is a filmmaker, creative
22 director, visual artist, and photographer. As a part of his business, Detail Films,
23 Plaintiff Kaufmann travels to, within, and through many states across the country.
24 He also routinely travels to, within, and through federal lands, such as BLM public
25 land, for filming, photography, and recreation.

26 62. Plaintiff Kaufmann is currently a member of Plaintiff Knife Rights.

1 63. To date, Plaintiff Kaufmann has conducted his business in, and has
2 vacationed and engaged in recreational activities to, within, and through, several
3 states, including and not limited to, Oklahoma, New Mexico, Nevada, New York,
4 and California. Plaintiff Kaufmann regularly travels with his family both within
5 Texas and outside Texas to camp and hike. Recently, he returned from Utah with his
6 family where they traveled throughout Utah and hiked on federal public land.

7 64. Currently, Plaintiff Kaufmann does not own an automatically opening
8 knife (switchblade knife), but wants one because he believes they are incredibly
9 useful knives that he can use while filming in remote areas both inside and outside
10 of Texas for utility purposes and self-defense. When filming in remote locations,
11 there is generally very little cell service; and he believes that it would be beneficial
12 to be able to carry an easy to open, one-hand-opening knife that he could have in his
13 pocket at all times for his safety and general use. He would also possess, use, and
14 carry an automatically opening knife in his everyday life for these same reasons.

16 65. On December 12, 2023, Plaintiff Kaufmann went online to purchase an
17 automatically opening knife. Specifically, he went on Knifecenter.com and selected
18 the "Microtech 123-10Z Signature Series Zombie Tech Auto OTF Knife 3.46"
19 Stonewashed Tanto Plain Blade, Zombie Green" automatically opening knife.

20 66. After Plaintiff Kaufmann clicked on "Add to Cart" to purchase the
21 automatically opening knife, he read a notification (pop-up) on Knife Center's
22 website explaining that the knife could not be shipped unless the purchase fell under
23 one of the exceptions to the Federal Switchblade Act.

25 67. Plaintiff Kaufmann reviewed the exceptions listed on Knife Center's
26 website and concluded that he did not fall within any exception that would allow him
27 to legally purchase the knife that he had selected. Understanding that it was illegal
28 to complete the purchase, he cancelled his transaction due to the Federal Switchblade

1 Act prohibiting him from purchasing and possessing an automatically opening knife.
2 Plaintiff Kaufmann considers the law a switchblade ban (Sections 1242, 1243) with
3 severe criminal consequences if violated.

4 68. At cancellation, Plaintiff Kaufmann was denied the ability to purchase
5 the automatically opening knife that he had wanted to purchase through the internet
6 solely because of the Federal Switchblade Act. As direct result, Plaintiff Kaufmann
7 believes that his Second Amendment right to keep and bear arms has been
8 unconstitutionally infringed upon. If it were not for the Federal Switchblade Act's
9 prohibitions and penalties (Sections 1242, 1243, 1244), he would have completed
10 his purchase and acquired the automatically opening knife. More specifically,
11 Plaintiff Kaufmann did not complete the purchase of the knife for fear of being: (a)
12 in violation of the Federal Switchblade Act, and (b) subject to prosecution and
13 criminal penalties. Plaintiff Kaufmann is married with kids, has no criminal record,
14 and risks losing his job and family if charged and convicted under the Federal
15 Switchblade Act.

16 69. After the above attempted purchase, Plaintiff Kaufmann reviewed the
17 language of the Federal Switchblade Act. As he understood it, the Act prohibits the
18 acquisition of such knives through interstate commerce and bars the mere possession
19 of such knives within both Indian country and federal land. While Plaintiff
20 Kaufmann lives in Texas, he routinely travels to and through surrounding states for
21 business and personal/recreation purposes. As a result, if Plaintiff Kaufmann were
22 able to acquire an automatically opening knife within Texas (as they are legal in
23 Texas), he would be prohibited from possessing the knife in many of the states in
24 which he visits and travels through because sizable portions of those states, like
25 Nevada, Arizona, Utah, Oklahoma, are comprised of land owned or operated by the
26 federal BLM and other federal agencies (National Parks Service); or are Native
27 American (Indian) land.
28

1 70. Plaintiff Kaufmann's Second Amendment rights provide him with a
2 legally protected interest to: (a) use interstate commerce to purchase an
3 automatically opening knife in his resident state of Texas, and (b) possess and carry
4 such knife as he travels within and through federal public land and Native American
5 (Indian) land in his home state of Texas and in surrounding states. But for the
6 switchblade ban under the Federal Switchblade Act (Sections 1242, 1243) and the
7 related criminal fines and imprisonment, or both, Plaintiff Kaufmann would have
8 purchased, possessed, used, and carried such knife for business, personal, recreation,
9 and self-defense purposes throughout his home state of Texas, in surrounding states,
10 and within and through federal public land and Native American (Indian) land.
11

12 71. Further, if the switchblade ban under the Federal Switchblade Act were
13 lifted or permanently enjoined, Plaintiff Kaufmann will purchase, possess, use, and
14 carry one or more automatically opening knives for the purposes stated above,
15 including self-defense. He will do so now and in the future but for the Federal
16 Switchblade Act and the risk of prosecution and imposition of severe criminal
17 penalties.

18 72. The injury/harm that Plaintiff Kaufmann has sustained (*i.e.*, preclusion
19 of his ability to purchase, possess, and carry an automatically opening knife for any
20 lawful purpose) is directly traced to the switchblade ban under the Federal
21 Switchblade Act and Defendant officials who are responsible for its enforcement.
22 His injury/harm to his Second Amendment rights can and should be redressed by the
23 Court's grant of a permanent injunction against enforcement of Sections 1242 and
24 1243 of the Federal Switchblade Act.
25

26 **Plaintiff Adam Warden**

27 73. Plaintiff Adam Warden resides in Holladay, Utah. He has been a
28 resident of the State of Utah for approximately 30 years.

1 74. Plaintiff Warden is an avid hunter and outdoorsman, spending many
2 of his weekends hunting waterfowl during the hunting season. He also has been a
3 fly-fishing guide, and an avid fisherman for 40 years and goes fishing regularly.
4 The majority of his time hunting and fishing is done within the State of Utah, but
5 he has hunted and fished in other states, including Alaska, Montana, California,
6 North and South Dakota, Texas, Colorado, Washington, Idaho, and Wyoming.

7 75. Plaintiff Warden is a strong advocate of the Second Amendment and a
8 current member of Plaintiff Knife Rights. Mr. Warden understands that Knife
9 Rights is taking part in this federal lawsuit to challenge the constitutionality of the
10 Federal Switchblade Act under the Second Amendment.

11 76. Currently, Plaintiff Warden does not own an automatic opening knife,
12 but wants to have one as they are incredibly useful knives that he can use while
13 hunting, fishing, and in everyday life.

15 77. On December 6, 2023, Plaintiff Warden went online to purchase an
16 automatic opening knife. Specifically, he went on Knifecenter.com and selected the
17 Pro-Tech “Rockeye Auto.” After adding the automatic opening knife to his cart, he
18 proceeded to check out. Before he was able to complete the knife purchase, a
19 notification appeared on Knife Center’s website explaining that the knife could not
20 be shipped unless the purchase fell under one of the exceptions under the Federal
21 Switchblade Act. After reviewing the notice, Mr. Warden also reviewed the
22 exceptions listed on Knife Center’s website and determined that he did not fall
23 within any exception that would allow him to legally purchase the knife.
24 Understanding that it was illegal to complete the purchase, he then cancelled his
25 transaction.

26 78. Plaintiff Warden was denied the ability to purchase an automatic
27 opening knife through the internet because of the Federal Switchblade Act; and as
28

1 direct result, believes that his Second Amendment right to keep and bear arms has
2 been unconstitutionally infringed upon. If it were not for the Federal Switchblade
3 Act's prohibitions and penalties, he would have legally completed his purchase of
4 the knife. More specifically, he did not complete the purchase of the knife for fear
5 of being in violation of the Federal Switchblade Act and subject to criminal
6 prosecution and severe criminal penalties.

7 79. After cancelling the purchase, Plaintiff Warden noted that the Federal
8 Switchblade Act prohibits the mere possession of automatic knives within and
9 through Indian country and federal land. Mr. Warden lives in Utah and routinely
10 travels within Utah and the surrounding states for personal, recreation, and business
11 purposes. As a result, if he were able to acquire an automatic opening knife within
12 Utah (as they are legal in Utah), he would still be prohibited from possessing the
13 knife in a large portion of his own state because sizable portions of Utah and the
14 surrounding states are comprised of land owned and/or operated by the federal
15 Bureau of Land Management (BLM) and other federal agencies (e.g., National Park
16 Service).

18 80. Plaintiff Warden currently hunts, goes fishing, camps, hikes, and
19 recreates in Utah, but he also engages in such activities in both Utah and
20 neighboring states on and through BLM public land and National Parks. If Mr.
21 Warden were able to purchase and possess an automatically opening knife, in the
22 immediate future, like the one he sought to purchase, he could not possess/carry
23 that knife in Utah and other states on and through BLM public land and National
24 Parks without violating the Federal Switchblade Act and exposing himself to
25 prosecution and severe criminal penalties. But for the Federal Switchblade Act and
26 his exposure to prosecution and criminal penalties, Mr. Warden would purchase,
27 use, possess, and carry the automatically opening knife, now and in the future,
28 within and through BLM public land and National Parks in Utah and neighboring

1 states.

2 81. Plaintiff Warden's Second Amendment rights provide him with a
3 legally protected interest to: (a) use interstate commerce to purchase an
4 automatically opening knife in his resident state of Utah, and (b) to possess and
5 carry such knife as he travels through federal public land and Native American
6 (Indian) reservation land in his home state of Utah and in surrounding states. But
7 for the switchblade ban under the Federal Switchblade Act (Sections 1242, 1243)
8 and the related criminal fines and possible imprisonment, or both, Mr. Warden
9 would have purchased, possessed, used, and carried such knife for hunting, fishing,
10 personal use, and protection throughout his home state of Utah, in surrounding
11 states, and within and through Native American (Indian) land and federal land.
12

13 82. If the switchblade ban under the Federal Switchblade Act were lifted
14 or permanently enjoined, Mr. Warden will purchase, possess, use, and carry an
15 automatic opening knife for hunting, fishing, and an array of other lawful uses,
16 including self-defense. He will do so now and in the future but for the Federal
17 Switchblade Act, and the risk of prosecution and the imposition of severe criminal
18 penalties.

19 83. The injury/harm that Plaintiff Warden has sustained (*i.e.*, preclusion of
20 his ability to purchase, possess, and carry an automatic opening knife for any lawful
21 purpose) is directly traced to the switchblade ban under the Federal Switchblade
22 Act and Defendant officials who are responsible for its enforcement. His
23 injury/harm to his Second Amendment rights can and should be redressed by the
24 Court's grant of a permanent injunction against enforcement of Sections 1242 and
25 1243 of the Federal Switchblade Act.

26 **Plaintiff Rodney Shedd**
27

28 84. Plaintiff Rodney Shedd is a former resident of Arizona, who recently

1 moved to his new residence in Tulsa, Oklahoma on September 14, 2024.

2 85. Plaintiff Shedd is 57 years old and a member of the Muscogee Nation
3 Tribe. His new residence, in Tulsa, Oklahoma, is on Muscogee Nation tribal land.

4 86. Plaintiff Shedd is a strong advocate of the Second Amendment and a
5 current member of Plaintiff Knife Rights. Plaintiff Shedd takes part in this
6 complaint as an individual and as a member of Plaintiff Knife Rights.

7 87. Before moving to his residence in Tulsa, Oklahoma, Plaintiff Shedd
8 legal owned and possessed a automatically opening folding knife in Arizona.
9 However, due to the Federal Switchblade Act's prohibition on the possession of
10 automatically opening knives within "Indian country," which states,

11 " [w]hoever, within any Territory or possession of the United States,
12 within Indian country (as defined in section 1151 of title 18), or within
13 the special maritime and territorial jurisdiction of the United States (as
14 defined in section 7 of title 18), manufactures, sells, or possesses any
15 switchblade knife, shall be fined not more than \$2,000 or imprisoned
16 not more than five years, or both." 15 U.S.C. § 1243

17 Plaintiff Shedd was forced to abandon his property in Arizona or be criminally
18 liable for unlawfully bringing and possessing a "switchblade" knife within the
19 Muscogee Nation tribal land.

20 88. Plaintiff Shedd was forced to abandon his legally owned, common arm
21 because of the Federal Switchblade Act; and as direct result, believes that his Second
22 Amendment right to keep and bear arms has been unconstitutionally infringed upon.
23 If it were not for the Federal Switchblade Act's prohibitions and penalties, Plaintiff
24 Shedd would continue to legally possess his automatically opening knife at his
25 residence in Tulsa, Oklahoma within the "Indian Country" of the Muscogee Nation.
26 More specifically, he was forced to get rid of his lawfully owned property for fear
27 of being in violation of the Federal Switchblade Act and subject to criminal

1 prosecution and severe criminal penalties.

2 89. Plaintiff Shedd's Second Amendment rights provide him with a legally
3 protected interest to: (a) use interstate commerce to purchase an automatically
4 opening knife in his resident state of Oklahoma, and (b) to possess and carry such
5 knife as he travels through federal public land and Native American (Indian)
6 reservation land in his home state of Oklahoma and in surrounding states. But for
7 the switchblade ban under the Federal Switchblade Act (Sections 1242, 1243) and
8 the related criminal fines and possible imprisonment, or both, Mr. Shedd would have
9 retained possession of his automatically opening knife and would purchase, possess,
10 use, and carry other such automatically opening knives while living with the
11 Muscogee Nation territory for lawful uses such as personal use, and protection
12 throughout his home state of Oklahoma, in surrounding states, and within and
13 through Native American (Indian) land and federal land.

15 90. Plaintiff Shedd would also purchase and acquire various models of
16 automatically opening knives through online sales and other forms of interstate
17 commerce. However, Plaintiff Shedd is precluded from doing so by the stated
18 provisions of the federal switchblade Act and its related criminal fines and possible
19 imprisonment, or both.

20 91. If the switchblade ban under the Federal Switchblade Act were lifted
21 or permanently enjoined, Plaintiff Shedd will purchase, possess, use, and carry an
22 automatic opening knife for various lawful uses, including self-defense. He will do
23 so now and, in the future, but for the Federal Switchblade Act, and the risk of
24 prosecution and the imposition of severe criminal penalties.

26 92. The injury/harm that Plaintiff Shedd has sustained (*i.e.*, preclusion of
27 his ability to purchase, possess, and carry an automatic opening knife for any lawful
28 purpose within "Indian Country") is directly traced to the switchblade ban under the

1 Federal Switchblade Act and Defendant officials who are responsible for its
2 enforcement. His injury/harm to his Second Amendment rights can and should be
3 redressed by the Court's grant of a permanent injunction against enforcement of
4 Sections 1242 and 1243 of the Federal Switchblade Act.

5 **ADDITIONAL RETAIL PLAINTIFFS' STANDING ALLEGATIONS**

6
7 93. As alleged, Plaintiff Arnold is the owner and operator of Plaintiff RGA
8 Auction Services LLC, dba Firearm Solutions; and Plaintiff Folloder is the owner
9 and operator of Plaintiff MOD Specialties. Both Plaintiff Firearm Solutions and
10 Plaintiff MOD Specialties hold, and have maintained, FFLs. If these Plaintiffs
11 engage in conduct that violates the Federal Switchblade Act, such violations can
12 result in ATF issuing notices of violation leading to revocation or non-renewal of
13 their FFLs. These Plaintiffs could use the so-called "Spyderco Acknowledgment and
14 Representations" form in the hope of avoiding prosecution, but they allege that the
15 acknowledgment and representation requirements are themselves needless,
16 impermissible, and a violation of their Second Amendment rights. As such, Plaintiffs
17 intend to acquire and distribute automatically opening knives without adhering to
18 the stated exceptions included in the FSA.

19
20 94. If the prohibitions under the Federal Switchblade Act were to be ruled
21 unconstitutional and enjoined, Plaintiffs Arnold and Folloder would immediately
22 contact various manufacturers of automatic opening knives throughout the country
23 to place orders, and to receive and acquire such knives *via* interstate commerce and
24 subsequently sell such knives inside and outside of Texas. Specifically, Plaintiffs
25 Arnold and Folloder would contact manufacturers, such as Benchmade, Hogue, and
26 Spyderco. They would immediately sign up as official dealers for these companies.

27
28 95. Plaintiff Folloder contacted the Area Supervisor of the ATF in the
Houston Field Division, and the Supervisor told him that his ability to renew a

1 federal firearms license is dependent on whether he is under indictment, has been
2 convicted in any court of a felony, or any other crime for which a court could
3 imprison him for more than one year. The Federal Switchblade Act and its criminal
4 penalties meet these criteria. This same threat of license revocation or non-renewal
5 applies with equal force to Plaintiff Arnold and his ability to renew Firearm
6 Solutions' FFL. As such, neither the prosecution or conviction of violating the FSA
7 is required to jeopardize Plaintiffs' livelihood and business. Plaintiffs are not willing
8 to jeopardize their federal firearms licensing, or renewal, by engaging in the
9 allegedly prohibited conduct under Sections 1242 and 1243 of the Federal
10 Switchblade Act. The jeopardy is the real and concrete risk of the loss or non-renewal
11 of their FFLs.

12 **DEFENDANTS**

14 96. Defendant Merrick B. Garland is the United States Attorney General.
15 As Attorney General, Defendant Garland is the head of the U.S. Department of
16 Justice (DOJ). Defendant Garland is sued in his official capacity. Plaintiffs are
17 informed and believe, and on that ground allege, that Defendant is responsible for
18 the enforcement of the Federal Knife Ban.

19 97. Defendant United States Department of Justice is a federal agency
20 located at 950 Pennsylvania Avenue, NW, Washington, D.C. 20530.

22 **JURISDICTION AND VENUE**

23 98. Venue lies in this Court under 28 U.S.C. § 1391, as this is an action
24 against officers and agencies of the United States, a plaintiff resides in this judicial
25 district, no real property is involved in this action, and the events giving rise to
26 Plaintiffs' claims arose or exist in this District in which the action is brought.

27 99. Title 28 U.S.C. § 1331 supplies the Court with original federal question
28 jurisdiction over this action because the action arises under the U.S. Constitution and

1 || laws of the United States.

STATEMENT OF FACTS

4 100. Federal law defines a “switchblade knife” to mean any knife having a
5 blade which opens automatically—(1) by hand pressure applied to a button or other
6 device in the handle of the knife, or (2) by operation of inertia, gravity, or both. See
7 15 U.S.C. 1241(b). The term “interstate commerce” means “commerce between any
8 State, Territory, possession of the United States, or the District of Columbia, and any
9 place outside thereof.” 15 U.S.C. § 1241(a).

10 101. Under the challenged statutes, “[w]hoever knowingly introduces, or
11 manufactures for introduction, into interstate commerce, or transports or distributes
12 in interstate commerce, any switchblade knife, shall be fined not more than \$2,000
13 or imprisoned not more than five years, or both.” 15 U.S.C. § 1242.¹

14 102. Further, “[w]hoever, within any Territory or possession of the United
15 States, within Indian country (as defined in section 1151 of title 18), or within the
16 special maritime and territorial jurisdiction of the United States (as defined in section
17 7 of title 18), manufactures, sells, or possesses any switchblade knife, shall be fined
18 not more than \$2,000 or imprisoned not more than five years, or both.” 15 U.S.C. §
19 1243.
20

21 103. The Federal Knife Ban has limited exceptions. The ban does not apply
22 to:

23 (1) any *common carrier or contract carrier*, with respect to
24 any switchblade knife shipped, transported, or delivered for shipment

²⁶ 1 To be clear, Plaintiffs do not challenge the Federal Knife Ban restrictions regarding
27 importation of “switchblade” knives into the United States at this time. See 15 U.S.C.
28 1241; Code of Federal Regulations Title 19, Ch. 1, Part 12, sections 12.95-12.103.

1 in interstate commerce in the ordinary course of business;

2 (2) the manufacture, sale, transportation, distribution, possession, or
3 introduction into interstate commerce, of switchblade knives pursuant
4 to *contract with the Armed Forces*;

5 (3) the *Armed Forces or any member or employee thereof* acting in the
6 performance of his duty;

7 (4) the possession, and transportation upon his person, of
8 any switchblade knife with a blade three inches or less in length *by any*
9 *individual who has only one arm*; or

10 (5) a knife that contains a spring, detent, or other mechanism designed
11 to create a bias toward closure of the blade and that requires exertion
12 applied to the blade by hand, wrist, or arm to overcome the bias toward
13 closure to assist in opening the knife.

14 See 15 U.S.C. § 1244(1)-(5).

15 104. Thus, the Federal Knife Ban unconstitutionally infringes on the
16 fundamental right to buy, sell, trade, possess, or carry any switchblade knife, as
17 defined, between any of the 50 states, Washington D.C., and any of the U.S.
18 territories despite that automatically opening knives are common arms protected by
19 the Second Amendment.

20 105. While Defendants have made the claim that there have been limited
21 prosecutions under sections 1242, 1243, and 1244 of the Federal Switchblade Act,
22 there is no question that these sections are in effect and enforced.

23 106. For example, in 2020, federal and state agencies raided Johan Lumsden,
24 who owned and operated Roadside Imports, LLC in Colorado—a switchblade
25 manufacturer and dealer. Mr. Lumsden is a current member of Plaintiff Knife Rights.

26 107. Based on the “search and seizure warrants” and related documents,,
27 enforcement officers initiated a violent raid of his home/business using flashbang or
28 like devices. Mr. Lumsden was arrested, detained, and questioned for hours
sustaining injuries to his hands and wrists; his dog was injured and “tased” by law

1 enforcement; authorities seized/confiscated approximately 2.8 million dollars worth
2 of switchblades and switchblade parts from Mr. Lumsden home/business; shut down
3 his multiple retail websites; and forced him out of business.

4 108. While he was never charged, Mr. Lumsden was detained, questioned,
5 physically injured, and had valuable property seized as a result of authorities
6 enforcing in Sections 1242, 1243, and 1244 of the Federal Switchblade Act. Mr.
7 Lumsden's property was eventually returned in 2023, significantly damaged. Mr.
8 Lumsden also sustained substantial injury, loss, and harm, including the damage/loss
9 of his inventory with an estimated value in the millions of dollars. Further, Mr.
10 Lumsden's computers and hard drives used for his business were confiscated and
11 have not been returned. Mr. Lumsden still lives under a cloud of possible
12 enforcement/prosecution.

14 109. As recently as March 7, 2024, the U.S. Customs and Border Patrol
15 published an article on its website stating, "Switchblade knives and other spring-
16 loaded knives are prohibited and may be subject to seizure (there is an exception for
17 one-armed persons). According to the Federal Switchblade Act, folding knives with
18 a blade bias toward closure are not considered switchblades."²

19 110. Further, Defendants boldly proclaim that the federal government shows
20 four enforcement actions under the Federal Switchblade Act; and that the Act has
21 not been enforced since 2010. Nowhere, however, do Defendants disavow
22 enforcement. Specifically, nowhere do Defendants disclose that they no longer
23 enforce the Federal Switchblade Act or that they will not enforce the law in the
24 future. Further, Defendants' statement about low prosecutions since 2010 is not
25 evidence that there have been no arrests, raids, charges, or pleas under the challenged

28 2 https://www.helpspanish.cbp.gov/s/article/Article-1123?language=en_US

1 provisions of the Federal Switchblade Act. To the contrary, any “lack of recent
2 prosecutions” is evidence of the fact that the U.S. knife industry is largely abiding
3 by the restrictions under the FSA. It further shows that Defendants’ have succeeded
4 in enforcing the FSA through their prior raid of Mr. Lumsden and the prosecution of
5 Spyderco, along with the active and ongoing enforcement of the terms and
6 conditions of Spyderco’s prosecution—which have been adopted by the automatic
7 knife industry in the United States.

8 111. As Plaintiffs have sufficiently alleged, they have no intention of abiding
9 by the FSA’s provisions, nor any stated exceptions to the interstate commerce
10 restrictions under the FSA. The Federal Switchblade Act remains “on the books” and
11 can be enforced now and in the future. And Plaintiffs’ stated intent places them in
12 the crosshairs of Defendants incurring significant and real threat of prosecution.

14 112. Defendants could publish an official stance from the Attorney General
15 or the Department of Justice that the challenged sections of the Federal Switchblade
16 Act will not be enforced now and in the future. But Defendants have provided no
17 such evidence or written assurances. Defendants could also affirm that the Federal
18 Switchblade Act will not be used to halt: (a) the interstate commerce of switchblade
19 knives, or (b) their possession and carry within and through Native American
20 (Indian) land and federal public land. But Defendants have provided no such
21 affirmation. Plaintiffs allege on information and belief that even if Defendants
22 provided present-day assurances, no assurances exist that future administrations
23 would not rescind the assurances and engage in a “zero tolerance” enforcement
24 policy.

25 113. All above facts show that Defendants enforce Sections 1242, 1243, and
26 1244 of the Federal Switchblade Act; and that they have not disavowed enforcement
27 now or in the future. If Plaintiffs were to move forward and knowingly violate

1 Sections 1242, 1243, and 1244, they will be under a very real threat of being
2 detained, arrested, and subject to search and seizure for an unknown time period.

3 114. Based on information and belief, the prohibitions under Section 1243
4 of the Federal Switchblade Act are also enforced on, within, and through federal
5 lands such as BLM public land and National Parks via 36 CFR § 2.4(g), which
6 explicitly states “the carrying or possessing of a weapon, trap or net in violation of
7 applicable Federal and State laws is prohibited.”

8 115. Further, on information and belief, the enforcement of the relevant
9 sections of the Federal Switchblade Act have been, and continue to be, enforced via
10 past prosecutions and plea deals that are still in effect to this day. For example, as
11 alleged above, in April 2007, the knife manufacturer and dealer Spyderco had knife
12 products—including butterfly knife parts, which fall under the definition of
13 switchblades pursuant to the Federal Switchblade Act and relevant regulations—
14 seized/confiscated and the company subsequently pled to a different charge. As part
15 of the plea agreement, on information and belief, Spyderco was forced to adhere to
16 the prohibitions of the Federal Switchblade Act. In addition, on information and
17 belief, Spyderco is still actively forced to require all dealers in switchblade knives to
18 sign and agree to a required notice/policy. Additionally, Spyderco was forced to
19 forfeit approximately one-half million dollars worth of product and pay substantial
20 fines as a part of the plea deal/judgment.

21 116. The Spyderco conviction involved a major knife manufacturer; the
22 conviction was well known in the knife industry; and it served as a real, concrete,
23 and imminent deterrent for knife manufacturers and dealers throughout the United
24 States concerning violations of the Federal Switchblade Act and Defendants'
25 enforcement of the Act.

26 117. While the Spyderco conviction may have been in 2007, the mandatory

1 adherence of the Federal Switchblade Act through the plea deal and judgment, which
2 is still in effect, is another example of the present and real enforcement of the Federal
3 Switchblade Act.

4 118. Moreover, the knife industry has implemented the very same
5 notice/policy regarding switchblade sales that was enforced against Spyderco and
6 actively enforced today. In other words, the prior raid on Mr. Lumsden and the
7 prosecution of Spyderco has acted, and continues to act, as an active and ongoing
8 enforcement threat to the automatic knife industry throughout the United States.
9

10 119. Automatically opening knives are “arms” under the plain text of the
11 Second Amendment. Moreover, Plaintiffs’ desire to keep and bear these arms for
12 self-defense and other lawful purposes now and in the future. This conduct is covered
13 by the plain text of the Second Amendment. As such, the Second Amendment
14 presumptively protects the arms proscribed under the Federal Knife Ban and the
15 Plaintiffs’ intended conduct. *See Bruen*, 142 S. Ct. at 2126.

16 120. To justify an arm regulation, “the government must demonstrate that
17 the regulation is consistent with the Nation’s historical tradition of [arms]
18 regulation.” *Bruen*, 142 S.Ct. at 2126, 2130.

20 121. Automatically opening knives were first produced in the 1700s. *See*
21 RICHARD V. LANGSTON, THE COLLECTOR’S GUIDE TO SWITCHBLADE KNIVES 30
22 (2001); *see also*, TIM ZINSER ET. AL., SWITCHBLADES OF ITALY 7-8 (2003).

23 122. By the mid-nineteenth century, factory production of automatically
24 opening knives made them affordable to everyday customers. *See* RICHARD V.
25 LANGSTON, THE COLLECTOR’S GUIDE TO SWITCHBLADE KNIVES 30, at 7 (2001).

26 123. Indeed, on Plaintiffs’ information and belief, millions of automatically
27 opening knives have been in common use for decades and longer.
28

1 124. Automatically opening knives are also common jurisdictionally. As of
2 January 2023, at least 46 states allow the possession of automatically opening
3 knives; and at least 36 states permit the public carry of said knives in some manner.

4 125. The automatically opening knives prohibited under the Defendants'
5 enforcement of the Federal Knife Ban are like other constitutionally protected knives
6 that do not have the blade fixed in place in all relevant respects. They have a blade,
7 a handle or grip, and the blade rests within the handle or grip of the knife when closed
8 or collapsed, and when open or extended is "fixed" into a usable position (likewise
9 through friction, geometry, or mechanical design) and may be used in the same
10 manner as any other common knife.

12 126. Automatically opening knives "are particularly easy to open with one
13 hand." *See, e.g.*, David Kopel, Clayton Cramer, and Joseph Edward Olson, *Knives*
14 and the Second Amendment, UNIVERSITY OF MICHIGAN JOURNAL OF LAW REFORM,
15 vol. 47, at 175 (Fall 2013). However, since a folding knife *of any kind* is only
16 functional when fully opened, the argument that one method of opening a knife with
17 one hand somehow increases the dangerousness to the public of a folding knife
18 compared to the myriad of other methods of opening a knife with one hand is
19 ludicrous. Whether a folding knife is opened manually or automatically, it is only
20 useful, for any purpose, once it is fully opened. Thus, "Prohibitions on carrying
21 knives in general, or of particular knives, are unconstitutional. For example, bans of
22 knives that open in a convenient way (*e.g.*, switchblades, gravity knives, and
23 butterfly knives) are unconstitutional." *Id.* at 167.

24 127. In simple terms, an automatically opening knife is merely a folding
25 pocket knife, an arm that is possession in millions of households in this country.
26 According to estimates from American Knife & Tool Institute, as many as
27 35,695,000 U.S. households own an outdoor knife or pocket knife. Moreover,

1 assisted-opening and one-hand-opening knives—which are functionally identical to
2 automatically opening knives—are approximately 80 percent of all folding knives
3 sold in the United States.

4 128. Defendants' enforcement of the Federal Knife Ban denies individuals
5 who reside in the United States, including the named Individual Plaintiffs and the
6 Institutional Plaintiff's members, their fundamental, individual right to keep and bear
7 these common, constitutionally protected arms for lawful purposes, including self-
8 defense.

129. The Federal Knife Ban has no historical pedigree, nor justification in
10 the Nation's history and tradition of arms regulation. Indeed, the Federal Knife Ban
11 dates only to 1958.
12

13 130. Automatically opening knives, including those prohibited under the
14 Federal Knife Ban, are in common use for lawful purposes throughout the vast
15 majority of the United States. Because automatically opening knives, including those
16 prohibited under the Federal Knife Ban, are possessed by peaceable people, they are
17 not (and could not be) *both* “dangerous *and* unusual” arms.

18 131. There is no constitutionally relevant difference between knives the that
19 may be acquired, possessed, carried, sold, and distributed through interstate
20 commerce throughout the United States and those prohibited under the Federal Knife
21 Ban.

CLAIM FOR RELIEF

COUNT II

**DEPRIVATION OF CIVIL RIGHTS RIGHT TO KEEP AND BEAR ARMS
U.S. CONST., AMEND. II (28 U.S.C. § 1331; 42 U.S.C. § 1983)**

27 || 132. Plaintiffs incorporate herein by reference the foregoing paragraphs as if

1 fully set forth herein.

2 133. There is an actual and present controversy between the parties.

3 134. The Second Amendment to the United States Constitution provides:

4 A well-regulated Militia being necessary to the security of
5 a free State, the right of the people to keep and bear Arms
6 shall not be infringed.

7 135. In *Heller*, 554 U.S. 570 (2008), the Supreme Court declared
8 unconstitutional the District of Columbia's laws that, among other things, prevented
9 Mr. Heller from having a handgun "operable for the purpose of immediate self-
10 defense." 554 U.S. 570 at 635. The word "immediate" means, as is relevant here,
11 "occurring, acting, or accomplished without loss or interval of time," *i.e.* "instant,"
12 "existing without intervening space or substance," and "acting or being without the
13 intervention of another object, cause, or agency." *See, e.g.*, <https://www.merriam-webster.com/dictionary/immediate>.

14 136. The Supreme Court "already recognized in *Heller* at least one way in
15 which the Second Amendment's historically fixed meaning applies to new
16 circumstances. The Second Amendment's reference to arms does not apply only to
17 those arms in existence in the 18th century." *Bruen*, 142 S. Ct. at 2132 (quoting
18 *Heller*, 554 U.S. at 582).

19 137. "Just as the First Amendment protects modern forms of
20 communications, and the Fourth Amendment applies to modern forms of search, the
21 Second Amendment extends, *prima facie*, to all instruments that constitute bearable
22 arms, even those that were not in existence at the time of the founding." *Id.* "Thus,
23 even though the Second Amendment's definition of arms is fixed according to its
24 historical understanding, that general definition covers modern instruments that
25 facilitate armed self-defense. *Cf. Caetano v. Massachusetts*, 577 U. S. 411, 411-412,

1 136 S. Ct. 1027, 194 L. Ed. 2d 99 (2016) (per curiam) (stun guns).” *Id.*

2 138. In *Caetano*, Justice Alito issued a concurring opinion, joined by Justice
 3 Thomas, explaining that, in determining whether an arm is protected under the
 4 Second Amendment, “the pertinent Second Amendment inquiry is whether stun guns
 5 are commonly possessed by law-abiding citizens for lawful purposes today.”
 6 *Caetano v. Massachusetts*, 577 U.S. 411 at 420. Indeed, the Massachusetts Supreme
 7 Judicial Court “offered only a cursory discussion of that question, noting that the
 8 ‘number of Tasers and stun guns is dwarfed by the number of firearms.’” *Id.*, quoting
 9 470 Mass., at 781, 26 N.E.3d, at 693. “This observation may be true, but it is beside
 10 the point. Otherwise, a State would be free to ban all weapons except handguns,
 11 because handguns are the most popular weapon chosen by Americans for self-
 12 defense in the home.” 577 U.S. 411 at 420 (quoting *Heller*, 554 U.S. at 629) (cleaned
 13 up).

15 139. As Justice Alito further explained, “[t]he more relevant statistic is that
 16 hundreds of thousands of Tasers and stun guns have been sold to private citizens,
 17 who it appears may lawfully possess them in 45 States.” *Id.* (quoting *People v.*
 18 *Yanna*, 297 Mich. App. 137, 144, 824 N. W. 2d 241, 245 (2012) (holding Michigan
 19 stun gun ban unconstitutional) (cleaned up)).

20 140. In *Bruen*, the Court reaffirmed principles it clearly applied in *Heller*.
 21 *Bruen* reiterated that “the Second Amendment extends, *prima facie*, to *all*
 22 instruments that constitute bearable arms.” *Id.* at 2132 (emphasis added).

24 141. There can be no dispute over the proper approach to evaluating Second
 25 Amendment claims. First, the Court must determine whether “the Second
 26 Amendment’s plain text covers an individual’s conduct” that is being restricted by a
 27 challenged law or policy. *Bruen*, 142 S. Ct. at 2129 – 30. Second, if the answer is
 28 yes, the conduct is presumptively protected, and the burden then falls to the

1 government to justify the challenged restriction by “demonstrating that it is
2 consistent with the Nation’s historical tradition of firearm regulation.” *Id.* at 2130.
3 If the government cannot make this demonstration, the restriction is unconstitutional,
4 full stop. No interest-balancing or levels-of-scrutiny analysis can or should be
5 conducted. *Id.* at 2127.

6 142. Automatically opening knives — including those proscribed under the
7 Federal Knife Ban — are widely possessed and used for lawful purposes across
8 much of the Country.
9

10 143. *Bruen* confirms that the Second Amendment’s plain text covers the
11 arms (knives) and conduct Plaintiffs wish to engage in (keep and bear arms). *Bruen*
12 also confirmed that *Heller* already conducted the relevant historical analysis for
13 determining whether a particular arm falls within the Second Amendment’s
14 protection. In order for a ban of an arm to be consistent with this Nation’s history of
15 firearm regulation, the government must demonstrate that the banned arm is both
16 “dangerous and unusual.” *Id.* at 2143. Arms that are in “common use today” simply
17 cannot be banned. *Id.*

18 144. When an arm is possessed and used by thousands for lawful purposes,
19 it is “in common use” and it is protected — full stop. If an arm is in common use, it
20 necessarily cannot be *both* “dangerous and unusual.” And moreover, even arms not
21 “in common use” cannot be banned so long as they are no more dangerous than other
22 arms that are in common use.
23

24 145. Even if the numerical quantity of any arm is difficult to establish, an
25 arm being in common use can be proved by categorical and jurisdictional
26 commonality. If an arm is categorically analogous or similar enough to a protected
27 arm and that it is lawful for them to be sold to private citizens in the majority of
28 states, then the arm is common. As such, it cannot be both “dangerous and unusual”

1 if it is lawful to possess and use in a majority of the Country.

2 146. Common use operates in one direction: An arm that is initially
3 uncommon can become common over time, but an arm that is common cannot
4 become uncommon.

5 147. Defendants' enforcement of the Federal Knife Ban prohibits
6 constitutionally protected arms and conduct, and thus violates the Second
7 Amendment to the United States Constitution.

8 148. "The constitutional right to bear arms in public for self-defense is not a
9 second-class right, subject to an entirely different body of rules than the other Bill of
10 Rights guarantees." *Bruen*, 142 S. Ct. at 2156 (quoting *McDonald*, 561 U. S., at 780
11 [plurality opinion]).

12 149. "The very enumeration of the [Second Amendment] right takes out of
13 the hands of government"— including Defendants — "the power to decide on a case-
14 by-case basis whether the right is *really worth* insisting upon." *District of Columbia*
15 *v. Heller*, 554 U.S. 570, 635 (emphasis in original).

16 150. Defendants have been enforcing, and are enforcing the Federal Knife
17 Ban. Plaintiffs reasonably fear that the Defendants will continue to enforce the
18 Federal Knife Ban against them now and in the future.

19 151. By enforcing the Federal Switchblade Act, threatening to enforce it, and
20 not disavowing enforcement, now and in the future, Defendants have violated the
21 Plaintiffs' rights protected under the Second Amendment.

22 152. Defendants' enforcement of the Federal Switchblade Act, at issue in
23 this case cause injury and damage actionable under federal law, 28 U.S.C. §1331, 42
24 U.S.C. § 1983. Plaintiffs thus seek declaratory and injunctive relief and recovery of
25 attorneys' fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the following relief:

1. A declaratory judgment that the relevant provisions of Federal Knife Ban and Defendants' enforcement of the Federal Knife Ban violates the right to keep and bear arms protected under the Second Amendment to the U.S. Constitution;

2. Preliminary and permanent injunctive relief restraining the Defendants and their officers, agents, servants, employees, and all persons in concert or participation with them who receive notice of the injunction, from enforcing the Federal Knife Ban;

3. All other and further legal and equitable relief, including injunctive relief, against Defendants as necessary to effectuate the Court's judgment, and/or as the Court otherwise deems just and equitable; and,

4. Attorney's fees and costs pursuant to 42 U.S.C. §§ 1988, 2000b-1, and any other applicable law.

Respectfully submitted this 27th day of September, 2024.

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